

**BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
STATE OF CALIFORNIA**

In the Matter of:)	Case NO. 2001-08C
)	
HECTOR CARO AND MARIA CARO,)	
PROPERTY OWNERS,)	OAH No. L2001060360
)	
)	
Respondents.)	
)	
)	
)	

DECISION

On August 3, 2001, in San Diego, California, Stephen E. Hjelt, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Lynda Williams, staff counsel, represented the complainant California Integrated Waste Management Board (CIWMB).

Respondent Maria Caro was present and assisted during the proceeding by Gabriela Caro Bundy, her daughter. Gabriela Caro Bundy had authority to act on behalf of both respondents.

Evidence was received, stipulations were entered into, the record was closed and the matter was submitted for decision on August 3, 2001.

FACTUAL FINDINGS

1. Lynda Williams, Staff Counsel, CIWMB, filed the Administrative Complaint against respondents. In doing so, she was acting in her official capacity.
2. CIWMB has the authority to inspect, permit, regulate and conduct enforcement actions against Waste TIRE facilities (WTFs) within the State of California under Public Resources Code section 42800 et seq., as well as regulations contained in Title 14 of the California Code of Regulations.
3. Hector Caro and Marie Caro, property owners of Caro Waste Tires Site, were licensed or permitted by CIWMB as a Waste Tire Facility and were identified as Facility No. 36-TI-1191.
4. Respondents were the subject of a Clean Up and Abatement Order Number 2001-71 dated August 15, 200, which requested that the operator and owners remove all waste tires from the location by September 15, 2000, in accordance with a schedule and operation plan, which required that CIWMB approve of the destinations of the tires to ensure that they are legally transported to an approved facility.
5. The parties, at hearing, entered into a stipulation, which they agreed to be bound by. Specifically, respondents agreed that they failed to comply with the Clean Up and Abatement Order referred to in Factual Finding 4 above in that they removed the waste tires themselves rather than using an approved waste tire hauler, to an unpermitted waste tires facility. These failures to comply were a violation of Public Resources Code section 42845.

LEGAL CONCLUSIONS

1. By virtue of the stipulations entered on the record at the hearing, Hector and Maria Caro, Property Owners of Caro Waste Tire Site, are liable for civil penalties pursuant to Public Resources Code section 42850.1 (b)
2. CIWMB's authority to assess civil penalties against the respondents is found in Public Resource Code section 42850 which states:

“Any Person who negligently violates and provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter is liable for a civil penalty of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5000) for each violation of a separate provision, or, for continuing violations, for each day that violation continues.”

3. The parties have agreed that a civil penalty of \$1,000, payable \$100 per month commencing 30 days from the date this decision is served upon them, is appropriate under the circumstances. In determining the reasonableness and propriety of a civil penalty, Public Resources Code section 42852 provides that the hearing officer...

“...Shall take into consideration the nature, circumstances, extent, and gravity of the violation, the violator’s past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety of the environment, the violators ability to pay the proposed penalty, and the prophylactic effect that imposition of the proposed penalty will have on both the violator and the regulated community as a whole.”

There is nothing in the record to indicate that the civil penalty agreed upon is unreasonable or inconsistent with the factors enumerated in section 42852.

ORDER

Respondents are assessed a civil penalty of \$1,000 payable \$100 per month commencing 30 days from the date they are served with a copy of this Decision.

DATED: October 5, 2001

STEPHEN E. HJELT
Presiding Administrative Law Judge
Office of Administrative Hearings